

Message

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**From:** Andres, Gary [Gary.Andres@mail.house.gov]  
**Sent:** 5/23/2016 2:53:54 PM  
**To:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fd3eb96e8b78-Distefano,]  
**Subject:** Re: TSCA

Thanks We are trying to make all these changes. Appreciate your input

Gary Andres  
Majority Staff Director  
House Energy and Commerce Committee

On May 23, 2016, at 10:48 AM, Distefano, Nichole <[Distefano.Nichole@epa.gov](mailto:Distefano.Nichole@epa.gov)> wrote:

Gary

We have been asked to provide our take on the current and proposed changes to the managers amendment to TSCA and I wanted to share with you what we are saying to others.

EPA has been able to review additional changes that were made to the managers amendment over the weekend and the additional suggested changes that were coming together late last night. EPA does not have any concerns with these changes and on balance see this as a positive compromise.

Nichole Distefano

Associate Administrator

Office of Congressional and Intergovernmental Relations

Environmental Protection Agency

(202) 564-5200

[Distefano.Nichole@epa.gov](mailto:Distefano.Nichole@epa.gov)

Message

---

**From:** Freedhoff, Michal (Markey) [Michal\_Freedhoff@markey.senate.gov]  
**Sent:** 5/23/2016 3:00:51 PM  
**To:** Kaiser, Sven-Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac78d3704ba94edbbd0da970921271ff-SKAISER]; Jones, Jim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c32c4b9347004778b0a93a4cbd83fc8a-JJONES1]; Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fd3eb96e8b78-Distefano,]  
**Subject:** RE: TSCA TA on mgrs amendment

Thanks - Saturday, your TA on Senate was that the savings clause in question was not necessary because section 14 itself is only about what EPA can and can't disclose. The savings clause was in the Senate bill in a more broadly applicable location, and then HLC stuck it somewhere else for no real reason. Does its placement change meaning from the Senate-passed version?

Michal Ilana Freedhoff, Ph.D.  
Director of Oversight & Investigations  
Office of Senator Edward J. Markey  
255 Dirksen Senate Office Building  
Washington, DC 20510  
202-224-2742

Connect with Senator Markey

-----Original Message-----

**From:** Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]  
**Sent:** Monday, May 23, 2016 10:46 AM  
**To:** Freedhoff, Michal (Markey); Jones, Jim; Distefano, Nichole  
**Subject:** TSCA TA on mgrs amendment

Michal,  
This responds to the request to review the managers amendment (5-22 at 9:34pm).

The changes made to section 14(d) -- through the edits to pages 107 and 109 -- may change the operation of the language requiring disclosure of CBI pursuant to subpoena or other judicial process. Without the changes, the bill provided that the non-disclosure agreements entered into by medical professionals or other responders did not shield the information from judicial process (including, presumably, process directed toward the responder). As revised, the bill could be read to provide only that EPA must disclose information in response to a subpoena or other judicial process but to be silent on whether other parties must do so.

Please let me know if any questions. Thanks, Sven

Message

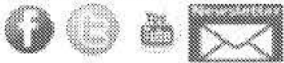
---

**From:** Freedhoff, Michal (Markey) [Michal\_Freedhoff@markey.senate.gov]  
**Sent:** 5/23/2016 3:17:04 PM  
**To:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fd3eb96e8b78-Distefano,]  
**CC:** Kaiser, Sven-Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac78d3704ba94edbbd0da970921271ff-SKAISER]  
**Subject:** RE: TA on Criminal Penalties

Why can't it just say "criminal penalty" the way 18(a) and b(1) do?

Michal Ilana Freedhoff, Ph.D.  
Director of Oversight & Investigations  
Office of Senator Edward J. Markey  
255 Dirksen Senate Office Building  
Washington, DC 20510  
202-224-2742

Connect with Senator Markey



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**From:** Distefano, Nichole [mailto:DiStefano.Nichole@epa.gov]  
**Sent:** Monday, May 23, 2016 11:02 AM  
**To:** Freedhoff, Michal (Markey)  
**Cc:** Kaiser, Sven-Erik  
**Subject:** TA on Criminal Penalties

Michal

Per your request to see any additional TA we are providing on the current draft of the TSCA managers amendment I wanted to share with you the below. One caveat was that the original TA suggested that we had not provided prior TA on this topic, however, we have. The prior TA and the new TA are pasted below. I have also clarified with the requestor that we did provide the earlier TA.

Old TA

"Without a reference to criminal penalties in section 18(b)(2)(A) (p 4 line 12), there is an implication that pause preemption applies even to state criminal penalties established *prior to* EPA's scoping of the risk evaluation."

New TA

We think this presents an issue. Section 18(b)(1) creates "pause preemption" for "a statute, criminal penalty, or administrative action" established during the period between scoping of a risk evaluation and completion. Section 18(b)(2) in turn appears intended to clarify (unnecessarily) that sec 18(b)(1) does not prevent states from continuing to enforce actions taken prior to the scoping of the risk assessment. If, per the new language suggested, the provision refers to "any statute enacted, criminal penalty *assessed*, or administrative action taken," it will imply that states cannot continue to enforce, during the pause, criminal penalty provisions established before the scoping of the risk assessment; they can only enforce existing criminal penalties already assessed. An alternative approach might be to revise the phrase to read: "any statute or criminal penalty enacted, or administrative action taken".

Nichole Distefano  
Associate Administrator  
Office of Congressional and Intergovernmental Relations  
Environmental Protection Agency  
(202) 564-5200  
[Distefano.Nichole@epa.gov](mailto:Distefano.Nichole@epa.gov)

Message

---

**From:** Albritton, Jason (EPW) [Jason\_Albritton@epw.senate.gov]  
**Sent:** 5/20/2016 8:57:33 PM  
**To:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fd3eb96e8b78-Distefano,]  
**Subject:** FW: Revised Language

- 1           "(2) with respect to subsection (b)
- 2           the hazards, exposures, risks, and uses or condi-
- 3           tions of use of such chemical substances included in the scope of
- the risk evaluation pursuant to section 6(b)(4)(D); and
- 4           "(3) with respect to subsection (a)(1)(B) the hazards,
- exposures, risks, and uses or conditions of use of such
- substances included in any final action the Administrator
- takes pursuant to section 6(a) or 6(i)(1).

Jason Albritton  
Senior Policy Advisor  
Senate Committee on Environment and Public Works  
Senator Barbara Boxer, Ranking Member  
456 Dirksen Senate Office Building

Tel: 202-224-8832  
Fax: 202-224-1273

Message

---

**From:** Freedhoff, Michal (Markey) [Michal\_Freedhoff@markey.senate.gov]  
**Sent:** 5/23/2016 8:29:15 PM  
**To:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fdc3eb96e8b78-Distefano,]; Kaiser, Sven-Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac78d3704ba94edbbd0da970921271ff-SKAISER]  
**Subject:** RE: hrg Wed AM may be Senate Floor

Some of this has been overtaken by events and some is clearly a scribble

Criminal - conflict with 18a,b,g

ChemID

Protected from disclosure vs make public

Cost benefit - 1 or more primary regulatory alternatives and not a second RE on the costs/benefits stuff

Partial REs

+ no regulatory compliance

+ no preemption of state statutory or common law private remedies regardless of EPA action

+ nothing in the act prevents the admission or discovery of any relevant chemical substance information regardless of CBI

+ specifically call out the intent to legislate around Geier

CA laws/pause fix

"maximum"

Tort

Disclosure

"minimum" in 6(a) and labels vs rest of 6(a)

"conditions of use" meaning "will present" and also including "mixtures"

Risk eval - what does this mean for states in 18

Low priority - may present, likely to, not likely to, etc

Michal Ilana Freedhoff, Ph.D.

Director of Oversight & Investigations

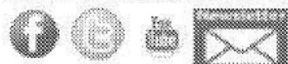
Office of Senator Edward J. Markey

255 Dirksen Senate Office Building

Washington, DC 20510

202-224-2742

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---

**From:** Distefano, Nichole [mailto:DiStefano.Nichole@epa.gov]

**Sent:** Monday, May 23, 2016 4:25 PM

**To:** Freedhoff, Michal (Markey); Kaiser, Sven-Erik

**Subject:** RE: hrg Wed AM may be Senate Floor

Can you send us your list? Folks think it will be helpful in our review and not recreating the wheel.

Nichole Distefano

Associate Administrator

Office of Congressional and Intergovernmental Relations  
Environmental Protection Agency  
(202) 564-5200  
[Distefano.Nichole@epa.gov](mailto:Distefano.Nichole@epa.gov)

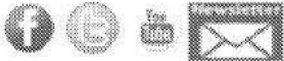
---

**From:** Freedhoff, Michal (Markey) [[mailto:Michal\\_Freedhoff@markey.senate.gov](mailto:Michal_Freedhoff@markey.senate.gov)]  
**Sent:** Monday, May 23, 2016 2:59 PM  
**To:** Kaiser, Sven-Erik <[Kaiser.Sven-Erik@epa.gov](mailto:Kaiser.Sven-Erik@epa.gov)>; Distefano, Nichole <[DiStefano.Nichole@epa.gov](mailto:DiStefano.Nichole@epa.gov)>  
**Subject:** hrg Wed AM may be Senate Floor

We've talked in the past about creating legislative history in the absence of a conference report. If there are things EPA thinks it would be useful to raise, send my way. I have a long list and will share w you in advance as well.

Michal Ilana Freedhoff, Ph.D.  
Director of Oversight & Investigations  
Office of Senator Edward J. Markey  
255 Dirksen Senate Office Building  
Washington, DC 20510  
202-224-2742

Connect with Senator Markey





Message

---

**From:** Freedhoff, Michal (Markey) [Michal\_Freedhoff@markey.senate.gov]  
**Sent:** 5/24/2016 3:10:41 PM  
**To:** Trenton Bauserman - White House Council on Environmental Quality ((b) (6))  
((b) (6)); Billingsley, Tara L. EOP/WHO ((b) (6)) Harding,  
Stephenne S. EOP/CEQ ((b) (6)) ((b) (6)); Distefano,  
Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5dfc3eb96e8b78-Distefano,]  
**Subject:** fyi

**From:** Britt, Clinton  
**Sent:** Tuesday, May 24, 2016 10:23 AM  
**Subject:** TSCA

Dear XXX Delegation Friends,

Earlier this year, your Attorney General wrote a letter to TSCA negotiators (attached). The number one request was that "states should not be preempted until EPA has taken a final action." Unfortunately, this request was not met in the final version of the bill. States are prohibited from taking action while EPA is looking at a chemical. This process is likely to take years. In other words, if your state wants to regulate a harmful chemical or take it off the market, but EPA is also looking at that chemical, XXX can do nothing about it until EPA finishes a risk evaluation. Moreover, if XXX bans a chemical from commerce but EPA only limits its use (does not ban it), the state law is preempted and the chemical would then go back into commerce.

This is all a bit arcane and complicated. I'm happy to answer any questions you have. Mr. Tonko would at least ask that your boss give this a second look before casting their vote.

His full statement is below -

"For many years, I have worked with Democratic and Republican Members of Congress to update and strengthen TSCA, a chemical safety law that has not worked or been updated since 1976. We have negotiated in good faith to try to reach an agreement to fix EPA's chemical program. And while there are positive aspects of this bill, ultimately, it is inadequate.

We must have a strong national chemical program to protect Americans. However, I am not convinced that the program that will be put into place by this bill justifies the unprecedented, new limitation of states' authorities.

During my time in office, I have considered compromise as a critical principal to achieve results for the people I represent in New York's 20th Congressional District. Compromise means you don't get everything you want. However, the inability of negotiators to meaningfully change the pre-emption aspect of TSCA has forced me to respectfully oppose the bill.

I have enjoyed the opportunity to work with my colleagues on the House Energy and Commerce Committee on this significant legislation. I believe that they genuinely want to ensure our families and children are protected from dangerous and toxic chemicals. However, major obstacles from the original House version of TSCA have only grown larger and more difficult to negotiate. These obstacles are simply untenable for my constituents and New York State as a whole. I intend to oppose the bill."

Thanks,

Clinton B. Britt



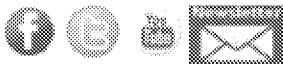
Chief of Staff

Congressman Paul Tonko (NY-20)  
2463 Rayburn House Office Building  
(202) 225-5076 / (202) 226-1098

Visit Rep. Tonko's Online Resources:

Michal Ilana Freedhoff, Ph.D.  
Director of Oversight & Investigations  
Office of Senator Edward J. Markey  
255 Dirksen Senate Office Building  
Washington, DC 20510  
202-224-2742

Connect with Senator Markey



Message

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**From:** Freedhoff, Michal (Markey) [Michal\_Freedhoff@markey.senate.gov]  
**Sent:** 10/4/2016 7:54:44 PM  
**To:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fdcf3eb96e8b78-Distefano,]  
**Subject:** Fw: PCB's report (not yet final)  
**Attachments:** Markey-PBCs-report-draft.pdf

Nichole

Attached is an embargoed near-final report that Senator Markey plans to release tomorrow. Happy to answer any questions.

Thanks  
Michal

Michal Ilana Freedhoff, Ph.D.  
Director of Oversight and Investigations  
Office of Senator Edward J. Markey (D-MA)

Message

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**From:** Freedhoff, Michal (Markey) [Michal\_Freedhoff@markey.senate.gov]  
**Sent:** 5/24/2016 3:14:40 PM  
**To:** Bauserman, Trent D. EOP/WHO (b) (6); Billingsley, Tara L. EOP/WHO (b) (6); Harding, Stephenne S. EOP/CEQ (b) (6); Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fdcf3eb96e8b78-Distefano,]  
**Subject:** RE: fyi

thx

Michal Ilana Freedhoff, Ph.D.  
Director of Oversight & Investigations  
Office of Senator Edward J. Markey  
255 Dirksen Senate Office Building  
Washington, DC 20510  
202-224-2742

Connect with Senator Markey

-----Original Message-----

**From:** Bauserman, Trent D. EOP/WHO (b) (6)  
**Sent:** Tuesday, May 24, 2016 11:12 AM  
**To:** Freedhoff, Michal (Markey); Billingsley, Tara L. EOP/WHO; Harding, Stephenne S. EOP/CEQ; Distefano, Nichole  
**Subject:** Re: fyi

Not surprising. He raised in caucus this AM. Pallone pushed back.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Freedhoff, Michal (Markey)  
**Sent:** Tuesday, May 24, 2016 11:10 AM  
**To:** Bauserman, Trent D. EOP/WHO; Billingsley, Tara L. EOP/WHO; Harding, Stephenne S. EOP/CEQ; Distefano, Nichole  
**Subject:** fyi

**From:** Britt, Clinton  
**Sent:** Tuesday, May 24, 2016 10:23 AM  
**Subject:** TSCA

Dear XXX Delegation Friends,

Earlier this year, your Attorney General wrote a letter to TSCA negotiators (attached). The number one request was that "states should not be preempted until EPA has taken a final action." Unfortunately, this request was not met in the final version of the bill. States are prohibited from taking action while EPA is looking at a chemical. This process is likely to take years. In other words, if your state wants to regulate a harmful chemical or take it off the market, but EPA is also looking at that chemical, XXX can do nothing about it until EPA finishes a risk evaluation. Moreover, if XXX bans a chemical from commerce but EPA only limits its use (does not ban it), the state law is preempted and the chemical would then go back into commerce.

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We must have a strong national chemical program to protect Americans. However, I am not convinced that the program that will be put into place by this bill justifies the unprecedented, new limitation of states' authorities.

During my time in office, I have considered compromise as a critical principal to achieve results for the people I represent in New York's 20th Congressional District. Compromise means you don't get everything

you want. However, the inability of negotiators to meaningfully change the pre-emption aspect of TSCA has forced me to respectfully oppose the bill.

I have enjoyed the opportunity to work with my colleagues on the House Energy and Commerce Committee on this significant legislation. I believe that they genuinely want to ensure our families and children are protected from dangerous and toxic chemicals. However, major obstacles from the original House version of TSCA have only grown larger and more difficult to negotiate. These obstacles are simply untenable for my constituents and New York State as a whole. I intend to oppose the bill."

Thanks,

Clinton B. Britt  
Chief of Staff  
Congressman Paul Tonko (NY-20)  
2463 Rayburn House Office Building  
(202) 225-5076 / (202) 226-1098

Visit Rep. Tonko's Online Resources:

Michal Ilana Freedhoff, Ph.D.  
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255 Dirksen Senate Office Building  
Washington, DC 20510  
202-224-2742

Connect with Senator Markey  
[cid:image001.png@01CF4907.0EDDA840][cid:image002.png@01CF4907.0EDDA840][cid:image003.png@01CF4907.0EDDA840][cid:image004.jpg@01CF4908.A5C59870]

Message

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**From:** Poirier, Bettina (EPW) [Bettina\_Poirier@epw.senate.gov]  
**Sent:** 9/26/2016 6:41:21 PM  
**To:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fd3eb96e8b78-Distefano,]  
**Subject:** Re: Would Gina be able to do a call with BB tomorrow on Tsca/ asbestos.

Thanks

from my iPhone

> On Sep 26, 2016, at 2:39 PM, Distefano, Nichole <Distefano.Nichole@epa.gov> wrote:  
>  
> Ex. 6 - Personal Privacy is her assistant. You can call there and they will connect you to the Administrator.

> Nichole Distefano  
> Associate Administrator  
> Office of Congressional and Intergovernmental Relations  
> Environmental Protection Agency  
> (202) 564-5200  
> Distefano.Nichole@epa.gov

> -----Original Message-----

> From: Poirier, Bettina (EPW) [mailto:Bettina\_Poirier@epw.senate.gov]  
> Sent: Monday, September 26, 2016 2:28 PM  
> To: Distefano, Nichole <Distefano.Nichole@epa.gov>  
> Subject: Re: Would Gina be able to do a call with BB tomorrow on Tsca/ asbestos.

> She can do 4:15. Can you supply a number we can connect senator boxer? Thanks!

> Sent from my iPhone

>> On Sep 26, 2016, at 2:18 PM, Distefano, Nichole <Distefano.Nichole@epa.gov> wrote:

>> She can do 4:15.

>> Nichole Distefano  
>> Associate Administrator  
>> Office of Congressional and Intergovernmental Relations Environmental  
>> Protection Agency  
>> (202) 564-5200  
>> Distefano.Nichole@epa.gov

>> -----Original Message-----

>> From: Poirier, Bettina (EPW) [mailto:Bettina\_Poirier@epw.senate.gov]  
>> Sent: Monday, September 26, 2016 2:17 PM  
>> To: Distefano, Nichole <Distefano.Nichole@epa.gov>  
>> Subject: Re: Would Gina be able to do a call with BB tomorrow on Tsca/ asbestos.

>> Not sure yet. Maybe 15? but checking

>> Sent from my iPhone

>>> On Sep 26, 2016, at 2:14 PM, Distefano, Nichole <Distefano.Nichole@epa.gov> wrote:

>>> I will need to check. How much later?

>>> Nichole Distefano  
>>> Associate Administrator  
>>> Office of Congressional and Intergovernmental Relations Environmental  
>>> Protection Agency  
>>> (202) 564-5200  
>>> Distefano.Nichole@epa.gov

>>>  
>>>  
>>>  
>>>  
>>> -----Original Message-----  
>>> From: Poirier, Bettina (EPW) [mailto:Bettina\_Poirier@epw.senate.gov]  
>>> Sent: Monday, September 26, 2016 1:53 PM  
>>> To: Distefano, Nichole <DiStefano.Nichole@epa.gov>  
>>> Subject: Re: Would Gina be able to do a call with BB tomorrow on Tsca/ asbestos.  
>>>  
>>> We are confirming it works, she has a 3:30, if necessary would a bit later work?  
>>>  
>>> Sent from my iPhone  
>>>  
>>>> On Sep 26, 2016, at 12:05 PM, Distefano, Nichole <DiStefano.Nichole@epa.gov> wrote:  
>>>>  
>>>> Yes. 4:00 tomorrow still works.  
>>>>  
>>>> Nichole Distefano  
>>>> Associate Administrator  
>>>> Office of Congressional and Intergovernmental Relations  
>>>> Environmental Protection Agency  
>>>> (202) 564-5200  
>>>> Distefano.Nichole@epa.gov  
>>>>  
>>>>  
>>>>  
>>>>  
>>>> -----Original Message-----  
>>>> From: Poirier, Bettina (EPW) [mailto:Bettina\_Poirier@epw.senate.gov]  
>>>> Sent: Monday, September 26, 2016 12:04 PM  
>>>> To: Distefano, Nichole <DiStefano.Nichole@epa.gov>  
>>>> Subject: Re: Would Gina be able to do a call with BB tomorrow on Tsca/ asbestos.  
>>>>  
>>>> I am double checking, does Tuesday at 4 still work?  
>>>>  
>>>> Sent from my iPhone  
>>>>  
>>>>> On Sep 22, 2016, at 4:40 PM, Distefano, Nichole <DiStefano.Nichole@epa.gov> wrote:  
>>>>>  
>>>>> Monday at 5:00 or Tuesday at 4:00. Let me know if either will work.  
>>>>>  
>>>>> Nichole Distefano  
>>>>> Associate Administrator  
>>>>> Office of Congressional and Intergovernmental Relations  
>>>>> Environmental Protection Agency  
>>>>> (202) 564-5200  
>>>>> Distefano.Nichole@epa.gov  
>>>>>  
>>>>>  
>>>>>  
>>>>>  
>>>>> -----Original Message-----  
>>>>> From: Poirier, Bettina (EPW)  
>>>>> [mailto:Bettina\_Poirier@epw.senate.gov]  
>>>>> Sent: Thursday, September 22, 2016 11:28 AM  
>>>>> To: Distefano, Nichole <DiStefano.Nichole@epa.gov>  
>>>>> Subject: Re: Would Gina be able to do a call with BB tomorrow on Tsca/ asbestos.  
>>>>>  
>>>>> Or Tuesday probably better. Give me a sense and we can coordinate.  
>>>>>  
>>>>> Sent from my iPhone  
>>>>>  
>>>>>> On Sep 22, 2016, at 10:37 AM, Distefano, Nichole <DiStefano.Nichole@epa.gov> wrote:  
>>>>>>  
>>>>>> Ok. I can look to see what options are available for Monday late afternoon/early evening. After 5:00?  
>>>>>>  
>>>>>> Nichole Distefano  
>>>>>> Associate Administrator  
>>>>>> Office of Congressional and Intergovernmental Relations  
>>>>>> Environmental Protection Agency  
>>>>>> (202) 564-5200  
>>>>>> Distefano.Nichole@epa.gov  
>>>>>>  
>>>>>>

>>>>>  
>>>>>  
>>>>> -----Original Message-----  
>>>>> From: Poirier, Bettina (EPW)  
>>>>> [mailto:Bettina\_Poirier@epw.senate.gov]  
>>>>> Sent: Thursday, September 22, 2016 10:23 AM  
>>>>> To: Distefano, Nichole <Distefano.Nichole@epa.gov>  
>>>>> Subject: Re: Would Gina be able to do a call with BB tomorrow on Tsca/ asbestos.  
>>>>>  
>>>>> Monday day time not good usually.  
>>>>>  
>>>>> Sent from my iPhone  
>>>>>  
>>>>>> On Sep 22, 2016, at 9:53 AM, Distefano, Nichole <Distefano.Nichole@epa.gov> wrote:  
>>>>>>  
>>>>>> She is actually in Peru this week. I don't think she gets back til Sunday.  
>>>>>>  
>>>>>> Want me to look for times next week?  
>>>>>>  
>>>>>> Sent from my iPhone  
>>>>>>  
>>>>>>> On Sep 22, 2016, at 9:17 AM, Poirier, Bettina (EPW) <Bettina\_Poirier@epw.senate.gov> wrote:  
>>>>>>>  
>>>>>>> We are not certain on times etc yet but wanted to check on Gina's availability.  
>>>>>>>  
>>>>>>> Sent from my iPhone  
>



Message

---

**From:** DeGraff, Kenneth [kenneth.degraff@mail.house.gov]  
**Sent:** 4/11/2016 4:06:09 PM  
**To:** Harding, Stephenne S. EOP/CEQ (b) (6); Repko, Mary Frances  
[Mary.Frances.Repko@mail.house.gov]  
**CC:** Bauserman, Trent D. EOP/WHO (b) (6) Distefano, Nichole  
[/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fd3eb96e8b78-Distefano,]; Norris, Nate D. EOP/CEQ  
(b) (6)  
**Subject:** RE: TSCA

Needs to be tomorrow if at all possible.

=====

Kenneth DeGraff  
Policy Advisor | Democratic Leader Nancy Pelosi  
www.DemocraticLeader.gov | 202-225-0100 | kenneth.degraff@mail.house.gov | H-204, The Capitol  
Twitter | Facebook | Youtube | Instagram | Flickr | Tumblr

-----Original Message-----

From: Harding, Stephenne S. EOP/CEQ (b) (6)  
Sent: Monday, April 11, 2016 12:05 PM  
To: Repko, Mary Frances; DeGraff, Kenneth  
Cc: Bauserman, Trent D. EOP/WHO; Distefano.Nichole@epa.gov; Norris, Nate D. EOP/CEQ  
Subject: TSCA

Let us know if there is a good time for all of us to discuss TSCA.

+Nate for scheduling

Stephenne Harding  
Associate Director of Legislative Affairs The White House Council on Environmental Quality  
Direct: 202-456-5157

Message

---

**From:** DeGraff, Kenneth [kenneth.degraff@mail.house.gov]  
**Sent:** 5/18/2016 12:56:26 AM  
**To:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fd3eb96e8b78-Distefano,]  
**CC:** Repko, Mary Frances [Mary.Frances.Repko@mail.house.gov]; Haman, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0ebb27cd881d41b19a30a491dc3f3f57-phaman]; Brown, Tristan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2524f58c2f0442cbbd025cdcbd4d1f7e-Hilton, Tri]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Davis, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=84111ec08c504b6baae0510b2d2ce46a-Davis, Matthew]  
**Subject:** Re: Heads-up Call

When are you thinking?

+--+--+--+--+--+--+--+--+--+  
Kenneth DeGraff  
Democratic Leader Nancy Pelosi

> On May 17, 2016, at 8:56 PM, Distefano, Nichole <Distefano.Nichole@epa.gov> wrote:

>  
> Mary Frances  
>  
> I can get Ben on the phone tonight if that works for you and Kenneth.  
>  
> Sent from my iPhone  
>

>> On May 17, 2016, at 8:21 PM, Repko, Mary Frances <Mary.Frances.Repko@mail.house.gov> wrote:

>>  
>> Pat, Kenneth and I have a serious constraint at 8:15 am. We have our Ranking Members meeting at which TSCA will be front and center. Any way we can get read in either tonight or earlier tomorrow? Thanks, Mary Frances  
>>

>> -----Original Message-----

>> From: Haman, Patricia [mailto:Haman.Patricia@epa.gov]  
>> Sent: Tuesday, May 17, 2016 7:32 PM  
>> Cc: Distefano, Nichole; Brown, Tristan; Lewis, Josh; Davis, Matthew  
>> Subject: Heads-up Call  
>>

>> Tomorrow morning, Wednesday, May 18th, at 8 am there will be a telephone briefing on an upcoming announcement that you are invited to participate in. You will receive the call-in information a short while before the call.

>> Please do not share this information nor the call-in information when you receive it with anyone else.  
>> We look forward to talking to you tomorrow.

>> Pat

>>  
>> Sent from my iPhone

Message

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**From:** DeGraff, Kenneth [kenneth.degraff@mail.house.gov]  
**Sent:** 5/18/2016 12:58:33 AM  
**To:** Repko, Mary Frances [Mary.Frances.Repko@mail.house.gov]  
**CC:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fdc3eb96e8b78-Distefano,]; Haman, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0ebb27cd881d41b19a30a491dc3f3f57-phaman]; Brown, Tristan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2524f58c2f0442cbbd025cdcbd4d1f7e-Hilton, Tri]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Davis, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=84111ec08c504b6baae0510b2d2ce46a-Davis, Matthew]  
**Subject:** Re: Heads-up Call

Okay

+--+--+--+--+--+--+--+--+--+  
Kenneth DeGraff  
Democratic Leader Nancy Pelosi

> On May 17, 2016, at 8:57 PM, Repko, Mary Frances <Mary.Frances.Repko@mail.house.gov> wrote:

>  
> Ok here.  
>  
> -----Original Message-----  
> From: Distefano, Nichole [mailto:Distefano.Nichole@epa.gov]  
> Sent: Tuesday, May 17, 2016 8:57 PM  
> To: DeGraff, Kenneth  
> Cc: Repko, Mary Frances; Haman, Patricia; Brown, Tristan; Lewis, Josh; Davis, Matthew  
> Subject: Re: Heads-up Call

>  
> Anytime. No too late. 15 min?

>  
> Sent from my iPhone

>> On May 17, 2016, at 8:56 PM, DeGraff, Kenneth <kenneth.degraff@mail.house.gov> wrote:

>>  
>> When are you thinking?

>>  
>> +--+--+--+--+--+--+--+--+--+  
>> Kenneth DeGraff  
>> Democratic Leader Nancy Pelosi

>>> On May 17, 2016, at 8:56 PM, Distefano, Nichole <Distefano.Nichole@epa.gov> wrote:

>>>  
>>> Mary Frances

>>>  
>>> I can get Ben on the phone tonight if that works for you and Kenneth.

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>>> Sent from my iPhone

>>>> On May 17, 2016, at 8:21 PM, Repko, Mary Frances <Mary.Frances.Repko@mail.house.gov> wrote:

>>>>  
>>>> Pat, Kenneth and I have a serious constraint at 8:15 am. We have our Ranking Members meeting at which TSCA will be front and center. Any way we can get read in either tonight or earlier tomorrow? Thanks, Mary Frances

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>>>> -----Original Message-----

>>>> From: Haman, Patricia [mailto:Haman.Patricia@epa.gov]  
>>>> Sent: Tuesday, May 17, 2016 7:32 PM  
>>>> Cc: Distefano, Nichole; Brown, Tristan; Lewis, Josh; Davis, Matthew  
>>>> Subject: Heads-up Call

>>>>  
>>>> Tomorrow morning, Wednesday, May 18th, at 8 am there will be a telephone briefing on an upcoming announcement that you are invited to participate in. You will receive the call-in information a short while before the call.

>>>> Please do not share this information nor the call-in information when you receive it with anyone else.  
>>>> We look forward to talking to you tomorrow.  
>>>> Pat  
>>>>  
>>>> Sent from my iPhone

Message

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**From:** DeGraff, Kenneth [kenneth.degraff@mail.house.gov]  
**Sent:** 5/18/2016 1:14:03 AM  
**To:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fd3eb96e8b78-Distefano,]  
**CC:** Repko, Mary Frances [Mary.Frances.Repko@mail.house.gov]; Haman, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0ebb27cd881d41b19a30a491dc3f3f57-phaman]; Brown, Tristan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2524f58c2f0442cbbd025cdcbd4d1f7e-Hilton, Tri]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Davis, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=84111ec08c504b6baae0510b2d2ce46a-Davis, Matthew]  
**Subject:** Re: Heads-up Call

I'm not going to be able to join. Nicole can I call you later tonight? What's my hard stop?

+++++

Kenneth DeGraff  
Democratic Leader Nancy Pelosi

On May 17, 2016, at 9:02 PM, Distefano, Nichole <[DiStefano.Nichole@epa.gov](mailto:DiStefano.Nichole@epa.gov)> wrote:

9:15.

Ex. 6 - Personal Privacy

Sent from my iPhone

On May 17, 2016, at 8:58 PM, DeGraff, Kenneth <[kenneth.degraff@mail.house.gov](mailto:kenneth.degraff@mail.house.gov)> wrote:

Okay

+++++

Kenneth DeGraff  
Democratic Leader Nancy Pelosi

On May 17, 2016, at 8:57 PM, Repko, Mary Frances  
<[Mary.Frances.Repko@mail.house.gov](mailto:Mary.Frances.Repko@mail.house.gov)> wrote:

Ok here.

-----Original Message-----

From: Distefano, Nichole [<mailto:DiStefano.Nichole@epa.gov>]  
Sent: Tuesday, May 17, 2016 8:57 PM  
To: DeGraff, Kenneth

Cc: Repko, Mary Frances; Haman, Patricia; Brown, Tristan;  
Lewis, Josh; Davis, Matthew  
Subject: Re: Heads-up Call

Anytime. No too late. 15 min?

Sent from my iPhone

On May 17, 2016, at 8:56 PM, DeGraff, Kenneth  
<[kenneth.degraff@mail.house.gov](mailto:kenneth.degraff@mail.house.gov)> wrote:

When are you thinking?

+++++

Kenneth DeGraff  
Democratic Leader Nancy Pelosi

On May 17, 2016, at 8:56 PM,  
Distefano, Nichole  
<[DiStefano.Nichole@epa.gov](mailto:DiStefano.Nichole@epa.gov)>  
wrote:

Mary Frances

I can get Ben on the phone tonight if  
that works for you and Kenneth.

Sent from my iPhone

On May 17, 2016, at  
8:21 PM, Repko,  
Mary Frances  
<[Mary.Frances.Repko@mail.house.gov](mailto:Mary.Frances.Repko@mail.house.gov)>  
wrote:

Pat, Kenneth and I  
have a serious  
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Members meeting at  
which TSCA will be  
front and center. Any

way we can get read  
in either tonight or  
earlier tomorrow?  
Thanks, Mary Frances

-----Original  
Message-----

From: Haman,  
Patricia  
[mailto:[Haman.Patricia@epa.gov](mailto:Haman.Patricia@epa.gov)]

Sent: Tuesday, May  
17, 2016 7:32 PM

Cc: Distefano,  
Nichole; Brown,  
Tristan; Lewis, Josh;  
Davis, Matthew

Subject: Heads-up  
Call

Tomorrow morning,  
Wednesday, May  
18th, at 8 am there  
will be a telephone  
briefing on an  
upcoming  
announcement that  
you are invited to  
participate in. You  
will receive the call-in  
information a short  
while before the call.

Please do not share  
this information nor  
the call-in information  
when you receive it  
with anyone else.

We look forward to  
talking to you  
tomorrow.

Pat

Sent from my iPhone



Message

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**From:** DeGraff, Kenneth [kenneth.degraff@mail.house.gov]  
**Sent:** 5/18/2016 2:04:08 PM  
**To:** Bauserman, Trent D. EOP/WHO [(b) (6)]  
**CC:** Repko, Mary Frances [Mary.Frances.Repko@mail.house.gov]; Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fdc3eb96e8b78-Distefano,]; Harding, Stephenne S. EOP/CEQ [(b) (6)]  
**Subject:** Re: TSCA

That could be useful. When do you estimate being ready?

+-----+-----+-----+-----+

Kenneth DeGraff  
Democratic Leader Nancy Pelosi

> On May 18, 2016, at 9:59 AM, Bauserman, Trent D. EOP/WHO [(b) (6)] wrote:  
>  
> We are huddling with EPA at 11 to get their read on the latest draft. Would it be helpful to do a call after that with you guys to discuss EPA's assessment and the lay of the land in the House?  
>  
> Trent Bauserman  
> Office of Legislative Affairs  
> 202/456-1574 d  
> Ex. 6 - Personal Privacy  
>

Message

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**From:** Black, Jonathan (Tom Udall) [Jonathan\_Black@tomudall.senate.gov]  
**Sent:** 4/17/2015 11:13:50 AM  
**To:** Kaiser, Sven-Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac78d3704ba94edbbd0da970921271ff-SKAISER]; Karakitsos, Dimitri (EPW) [Dimitri\_Karakitsos@epw.senate.gov]; Vaught, Laura [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c30920bcb6214a91b7e3c1e7810c63e1-Vaught, Laura]; Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fd3eb96e8b78-Distefano,]  
**Subject:** RE: SEPW TSCA TA Request

Sven, we really need the remaining piece ASAP. We'd like to deliver an offer on Monday. Is it possible to get a response on that point today?

---

**From:** Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]  
**Sent:** Wednesday, April 15, 2015 4:53 PM  
**To:** Black, Jonathan (Tom Udall); Karakitsos, Dimitri (EPW); Vaught, Laura; Distefano, Nichole  
**Subject:** SEPW TSCA TA Request

Jonathan and Dimitri,  
Attached please find technical assistance in response to your request. The attachment includes technical assistance on all of the questions except Q2 (preemption and other federal laws). Q2 is still in progress. The technical assistance does not necessarily represent the policy positions of the agency and the administration on the bill, the draft language and the comments. Please let me know if any additional questions. Thanks,  
Sven

Sven-Erik Kaiser  
U.S. EPA  
Office of Congressional and Intergovernmental Relations  
1200 Pennsylvania Ave., NW (1305A)  
Washington, DC 20460  
202-566-2753

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**From:** Black, Jonathan (Tom Udall) [mailto:Jonathan\_Black@tomudall.senate.gov]  
**Sent:** Wednesday, April 15, 2015 11:56 AM  
**To:** Kaiser, Sven-Erik; Karakitsos, Dimitri (EPW)  
**Subject:** RE: SEPW TSCA TA Request

Checking in. Any chance we can have this by 4pm today?

Thanks!  
---jb

---

**From:** Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]  
**Sent:** Friday, April 10, 2015 4:12 PM  
**To:** Black, Jonathan (Tom Udall); Karakitsos, Dimitri (EPW)  
**Subject:** RE: SEPW TSCA TA Request

Jonathan and Dimitri,  
Thanks for talking with us today about the technical assistance. We'll start on the request below and let you know if any questions. Best,

Sven

Sven-Erik Kaiser  
U.S. EPA  
Office of Congressional and Intergovernmental Relations  
1200 Pennsylvania Ave., NW (1305A)  
Washington, DC 20460  
202-566-2753

---

**From:** Black, Jonathan (Tom Udall) [[mailto:Jonathan\\_Black@tomudall.senate.gov](mailto:Jonathan_Black@tomudall.senate.gov)]  
**Sent:** Friday, April 10, 2015 4:05 PM  
**To:** Kaiser, Sven-Erik; Karakitsos, Dimitri (EPW)  
**Cc:** Black, Jonathan (Tom Udall)  
**Subject:** RE: SEPW TSCA TA Request

Sven,

Thanks for the Technical Assistance Call today.

To follow-up, EPA has agreed to propose some language on “articles” that would codify existing practice on treatment of articles. We are hoping to see that language by Tuesday/Wednesday.

As well, we discussed exceptions for state statutes. We have a few questions that are keyed from the following draft text:

Q1: Would there be any effect from deleting 18(d)(1) if 18(d)(2) is retained?

Q2: Is it possible to delete/simplify “**or adopted for the purpose of satisfying or obtaining authorization or approval under any other Federal law**”?

Q3: Can you review the proposed draft changes to subsection (d)(1)(C) [mirrored in (d)(2)(C)] to ensure the intent of preserving actions (including even chemical restrictions) that states have taken or would take under state statutes to address different health/environmental concerns than those EPA has addressed under TSCA?

(d) Exceptions.—

“(1) ~~IN GENERAL.—SUBSECTIONS (A) AND (B) GENERAL.~~ **Subsection (a)** shall not apply to a statute or administrative action of a State or a political subdivision of a State applicable to a specific chemical substance that—

“(A) is adopted **or authorized** under the authority of, ~~or authorized to comply with,~~ **any other Federal law or adopted for the purpose of satisfying or obtaining authorization or approval under** any other Federal law;

“(B) implements a reporting, monitoring, or other information collection obligation for the chemical substance not otherwise required by the Administrator under this Act or required under any other Federal law; ~~or~~

“(C) is adopted pursuant to authority under a law of the State or political subdivision of the State related to water quality, air quality, or waste treatment or disposal, ~~unless the action taken by the State or political subdivision of a State—~~ **except to the extent that the action—**

“(i) imposes a restriction on the manufacture, processing, distribution in commerce, or use of a chemical substance; and

~~“(ii)(I) addresses the same hazards and or exposures, with respect to the same conditions of use, as is already required by a decision by the Administrator under section 5 or 6;~~

~~“(II) is taken to address a health or environmental concern that applies to the uses or conditions of use that are included in the scope of a safety determination pursuant to section 6 or the scope of a significant new use rule promulgated pursuant to section 5, but is inconsistent with the action determination of the Administrator under section 6(c)(1)(A) or a rule promulgated by the Administrator under section 6(d); or~~

~~“(III)“(II) would cause a violation of the applicable action by the Administrator under section 5 or 6; or~~

“(2) NO PREEMPTION OF STATE STATUTES AND ADMINISTRATIVE ACTIONS.—Nothing in this Act, nor any amendment made by this Act, nor any rule, standard of performance, safety determination, or scientific assessment implemented pursuant to this Act, shall affect the right of a State or a political subdivision of a State to adopt or enforce any rule, standard of performance, safety determination, scientific assessment, or any protection for public health or the environment that—

“(A) is adopted **or authorized** under the authority of, ~~or authorized to comply with,~~ **any other Federal law or adopted for the purpose of satisfying or obtaining authorization or approval under** any other Federal law;

“(B) implements a reporting, monitoring, **disclosure**, or other information collection obligation for the chemical substance not otherwise required by the Administrator under this Act or required under any other Federal law; ~~or~~

“(C) is adopted pursuant to authority under a law of the State or political subdivision of the State related to water quality, air quality, or waste treatment or disposal, ~~unless the action taken by the State or political subdivision of a State—~~ **except to the extent that the action—**

“(i) imposes a restriction on the manufacture, processing, distribution in commerce, or use of a chemical substance; and

~~“(ii)(I) addresses the same hazards and or exposures, with respect to the same conditions of use as is already required by a decision by the Administrator under section 5 or 6;~~

~~“(II) is taken to address a health or environmental concern that applies to the uses or conditions of use that are included in the scope of a safety determination pursuant to section 6 or the scope of a significant new use rule promulgated pursuant to section 5, but is inconsistent with the action determination of the Administrator under section 6(c)(1)(A) or a rule promulgated by the Administrator under section 6(d);~~

~~“(III)“(II) would cause a violation of the applicable action by the Administrator under section 5 or 6; or~~

---

**From:** Karakitsos, Dimitri (EPW) [mailto:Dimitri\_Karakitsos@epw.senate.gov]

**Sent:** Thursday, April 09, 2015 5:13 PM

**To:** Kaiser, Sven-Erik

**Cc:** Black, Jonathan (Tom Udall)

**Subject:** EPA TA

Sven,

Here are a few things we would greatly appreciate some EPA TA on. We may need to discuss some further so if a phone call would be helpful please just let me know and thanks in advance for the help. I am also happy to work with you to help facilitate a call between your folks and some interested parties on the articles language if you think that would help.

Dimitri

Articles

It was my understanding that under current TSCA if EPA were looking to regulate an article or articles the Agency would already have somewhat of a higher bar and do some level of extra analysis of finding there is an exposure to a chemical substance from an article or group of articles. I had a brief conversation that I interpreted as the Agency not being against some heightened review to determine when article specific regulations were necessary but clearly we understand the challenges and hurdles the language we have in the bill today seem to cause. Below are two proposals, one from an outside counsel which I don't think addresses all your concerns and one that we worked up to see what you all thought. It is important to us to have something on articles in the bill, striking is not much of an option so if you all can please review and provide guidance we would appreciate.

- Proposed language – If the Administrator intends to prohibit or otherwise restrict an article, or a category of articles that perform similar functions and have similar patterns of exposure, on the basis of a chemical substance contained in that article or category, the Administrator shall have evidence of significant exposure to the chemical substance from such article or category.
- Draft staff language - New 3A(h)(2)(C)(ii)(III): “ when considering the regulation of an article, or a category of articles, in a rulemaking under section 6, clearly describe the exposure or exposures to the chemical substance determined by the Administrator to be associated with such articles or categories of articles.”

### **Preemption**

Waiver – in our State Waivers we have two separate provisions that require a showing of a “compelling state or local” condition or interest. Those provisions were not intended to mean that the state would have to show some different exposures or unique conditions to meet that requirement, it was simply that they had a genuine concern with the substance that led them to request the waiver. Is there some way to clarify?

Exceptions/No Preemption of State Statutes and Administrative Actions – these two provisions other than their intro paragraphs are identical. The request for clarification and TA comes from subsection A in both 1 and 2. I have concern that “for the purpose of satisfying or obtaining authorization or approval under any other federal law” is incredibly broad and could leave loop holes for states to regulate TSCA regulated chemical substances in ways inconsistent with EPA decisions under the law. If EPA for example (possibly not the most eloquent or well thought out example) found a product safe for use in an aerosol application yet a state banned it under their state law to comply with the CAA to reduce VOCs or some other air pollutant – maybe it is one option the state could take “for the purpose of satisfying or obtaining authorization or approval” but it may be one of a range of options – why should that be inconsistent with an EPA TSCA decision. I think at a minimum I would prefer language stating the state level restriction is “necessary” to satisfy or obtain authorization or approval rather than “for the purpose of.”

Message

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**From:** Black, Jonathan (Tom Udall) [Jonathan\_Black@tomudall.senate.gov]  
**Sent:** 11/22/2015 7:53:33 PM  
**To:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fd3eb96e8b78-Distefano,]  
**CC:** Wallace, Andrew (Tom Udall) [Andrew\_Wallace@tomudall.senate.gov]  
**Subject:** TSCA

Can we chat tomorrow morning?

Have to run something by you.

Thanks,

Jb

Message

---

**From:** Black, Jonathan (Tom Udall) [Jonathan\_Black@tomudall.senate.gov]  
**Sent:** 11/23/2015 2:27:48 PM  
**To:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fd3eb96e8b78-Distefano,]  
**CC:** Wallace, Andrew (Tom Udall) [Andrew\_Wallace@tomudall.senate.gov]  
**Subject:** RE: TSCA

Sold. What number do you want us to use?

---

**From:** Distefano, Nichole [mailto:DiStefano.Nichole@epa.gov]  
**Sent:** Monday, November 23, 2015 9:01 AM  
**To:** Black, Jonathan (Tom Udall)  
**Cc:** Wallace, Andrew (Tom Udall)  
**Subject:** Re: TSCA

Hi sorry I am just seeing this. I am in mtgs until 10 but can talk for about 15 min at 10:00

Sent from my iPhone

On Nov 22, 2015, at 2:53 PM, Black, Jonathan (Tom Udall) <Jonathan\_Black@tomudall.senate.gov> wrote:

Can we chat tomorrow morning?

Have to run something by you.

Thanks,

Jb



Message

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**From:** Black, Jonathan (Tom Udall) [Jonathan\_Black@tomudall.senate.gov]  
**Sent:** 1/29/2016 9:03:23 PM  
**To:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fdcf3eb96e8b78-Distefano,;]; Jones, Jim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c32c4b9347004778b0a93a4cbd83fc8a-JJONES1]; Kaiser, Sven-Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac78d3704ba94edbbd0da970921271ff-SKAISER]  
**Subject:** Sen. Udall, FYI

I believe he may try to reach the Administrator and Jim Jones.

He wants to thank EPA for the TSCA views letter.

I don't think he needs to have a long conversation and may just leave a message for the Administrator and then catch Jim for a quick call.

Nothing you need to prep for or arrange.

Message

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**From:** Poirier, Bettina (EPW) [Bettina\_Poirier@epw.senate.gov]  
**Sent:** 1/21/2016 12:41:44 AM  
**To:** Kaiser, Sven-Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac78d3704ba94edbbd0da970921271ff-SKAISER]  
**CC:** Distefano, Nichole [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31d32a3a3a9e4591b5fd3eb96e8b78-Distefano,]  
**Subject:** Re: Administration Views Letter on TSCA Reform Bills

The approach on this is unhelpful and would have benefited from consultation.

Sent from my iPhone

On Jan 20, 2016, at 7:12 PM, Kaiser, Sven-Erik <[Kaiser.Sven-Erik@epa.gov](mailto:Kaiser.Sven-Erik@epa.gov)> wrote:

Bettina,  
Please see attached and let me know if any questions. Thanks,  
Sven  
Sven-Erik Kaiser  
U.S. EPA  
Office of Congressional and Intergovernmental Relations  
1200 Pennsylvania Ave., NW (1305A)  
Washington, DC 20460  
202-566-2753